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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/895,557

06/29/2001

Andrew V. Anderson

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6490

7590

01/21/2005

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EXAMINER

JAROENCHONWANIT, BUNJOB

ART UNIT

PAPER NUMBER

2143

DATE MAILED: 01/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary**Application No.**

09/895,557

Applicant(s)

ANDERSON ET AL.

Examiner

Bunjoo Jaroenchonwanit

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 and 36-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 and 36-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to the amendment and remark filed 09/20/04, the terminal disclaimer filed is acknowledged, Claim 1-33 and 36-29 are pending for examination.

The rejection cited are as stated below.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 3-11, 13-33, 36 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz et al (US.2003/0046421) and Fisher et al (US. 5,835,896).

4. As to claims 1, 3, 6-9, 11, 13, 16-19 and 21-33, Horvitz discloses a methodology that is applicable for constructing computer instructions to function as a system for routing messages on priority bases in a computer system, comprising means and steps for:

receiving information of an event, (Fig. 1, Fig. 27);

determining the level of importance of the event relative to a first person (paragraphs 9, 11, 14-15, 65); and

if the event has level of importance greater than a first threshold, and a level of importance that is below a second predetermined threshold, then taking action without contact any person (the system employed threshold level for determining appropriate actions to be taken, e.g., such as sending notification without contact any one when threshold level is greater than 85 and less then maximum or send notification without contact any person when threshold level equal or higher than 95 and equal or below maximum, Fig. 23-26; paragraphs 17, 74-75, 83 and 105).

Despite the fact that Horvitz disclosed several specific applications, it does not explicitly disclose a specific implementation of the claimed invention, i.e., a concept of using digital assistant, i.e., computer, in taking actions requiring payment to an e-commerce, e.g., proxy bidding, auctioning, trading, etc. However, such inventive concept is not novel, because action taking without contacting anyone is read on a conventional proxy bidding, which has been utilized to provide convenient to auction participants. In the same field of endeavor, Fisher discloses using a program executing in a computer for functioning as an auction proxy bidder, which is capable of raising bidding price, without contacting any bidder, as long as the bidding price remains within the predetermined range (Abstract; Col. 1, line 56-Col. 2, line 67; Col. 12, line 63-Col. 13, line 25).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to expand a capability of assigning action taking task without contacting any person to taking action requiring payment, such as automatically bidder as suggested in Fisher, in order to enhance ability of a person who located remotely from e-commerce or auction site to progressively interacting with e-commerce or auction process without having to stay in front of computer or auction terminal, but still maintaining a capability of interacting or auctioning, which would tremendously convenient for the bidder or the first person.

5. Regarding claims 4, 5, 14 and 15, Horvitz-Fisher disclose user activity includes locate user whereabouts (Horvitz, Fig. 34; paragraphs 2262-2264).

6. Regarding claims 10 and 20, Horvitz-Fisher discloses, referring to information exceptions to those rules (user-profile allow user to exclude message to be delivered, Horvitz, Fig. 14-16).

Art Unit: 2143

7. Regarding claim 36 and 38, Horvitz-Fisher teaches using threshold to determine importance level of an event, based on the outcome, decides whether to take further action such as forward message, notifying a person as discussed above. Hence determining whether opportunity exists for taking action is inherent feature.

8. As to claims 2, 12, 37 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz-Fisher, as applied to claim 1 and Horvitz et al (US.2003/0046421), in view of what was well known in the art.

9. Regarding claims 2 and 12, Horvitz-Fisher discloses the invention substantially, but fails to include determining importance level by comparing subject of message with a list of subject. Official Notice is taken that level of determining level of importance by comparing subject with a list of subject of interest was well known and widely utilized in messaging communication art, e.g., e-mail filtering or messages subscribing system, in which allows its subscribers to specify the subject of interest in their profile for future comparison.

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made that to modify level of importance determination by including well known technique in the art to expand the utility of the system.

10. Regarding claims 37 and 39, Horvitz-Fisher discloses the invention substantially, as claimed, as described in their base claims, including substantially as described in their base claims including, inherently teaches ceasing to take action, since the action taking is dictated by level of threshold. Horvitz does not explicitly disclose the system include logging inaction event. Official notice is taken that logging information were notorious at the time of the invention was made. Thus, to include a well known event logging for record action taken event

Art Unit: 2143

would have been obvious to one of ordinary skilled in the art, because such inclusion would simplify system's activity analysis.

11. Applicant's arguments with respect to claim 1-33 and 36-39 have been considered but are moot in view of the new ground(s) of rejection.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

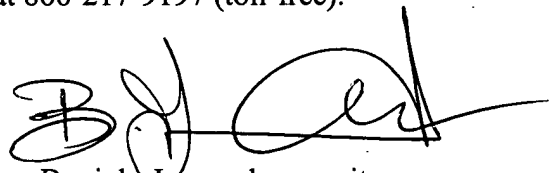
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bunjob Jaroenchonwanit whose telephone number is (571) 272-3913. The examiner can normally be reached on 8:00-17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2143

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Bunjob Jaroenchonwanit', is written over a horizontal line.

Bunjob Jaroenchonwanit
Primary Examiner
Art Unit 2143

/bj
01/12/05